

**DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 03-0094P
Adjusted Gross Income Tax
For Calendar Years 1998, 1999, and 2000**

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalties assessed.

II. Tax Administration – Interest

Authority: IC 6-8.1-10.1

Taxpayer protests the interest assessed.

STATEMENT OF FACTS

Taxpayer was audited for Calendar Years 1998, 1999, and 2000. Upon audit, it was discovered that the taxpayer made several errors and failed to timely reported the results of an RAR in 1998. Taxpayer was assessed a penalty upon audit for that failure and failure to correctly report gross income and the correct sales apportionment factor. Taxpayer was also assessed a penalty for the underpayment of estimated income taxes. Taxpayer made only one estimated payment during the audit period.

Taxpayer protests the proposed penalty and interest assessments for the underpayment of estimated tax and the audit penalty.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer protests the penalties and interest assessed for the underpayment of estimated income

taxes and the penalty for failing to correctly report its tax liabilities.

Taxpayer was audited for 1998, 1999, and 2000 that generated an underpayment in tax upon which was assessed a penalty and interest. Based upon review of the audit, the assessment was minimal compared to the total paid.

Taxpayer made no quarterly estimated payments throughout the year and was assessed an additional penalty for the underpayment of estimated income taxes.

Taxpayer states that the Department did not properly recognize the timing of the EDGE credits. For that reason it kept taking the carryforward credits (in lieu of quarterly payments). Taxpayer states that (after years) the credit was acknowledged, a refund was generated, which made it look like it was underpaid. Taxpayer states he was the one that brought it to the attention of the auditor.

Taxpayer requests an abatement of the penalties.

For the audit period, the penalty is waived for taxpayer's failure to correctly report its gross and adjusted gross income.

To avoid the penalty, the quarterly estimate must equal at least twenty percent (20%) of the total income tax liability for the current taxable year or twenty-five percent (25%) of the final income tax liability for the prior taxable year. Taxpayer failed to make the quarterly estimated payments.

Taxpayer's argument that it kept taking carryforward credits in lieu of quarterly payments is in error. The 1996 return asked for a refund for the total amount in tax. Taxpayer was refunded interest to date of payment. Taxpayer had no carryforward credits available.

Taxpayer's audit penalty is waived. Taxpayer's underpayment penalty is denied because the taxpayer failed to make estimated payments in all years except 1998 in which it paid \$1,000. Taxpayer has not provided reasonable cause to allow a penalty waiver.

FINDING

Taxpayer's protest is partially sustained and partially denied.

II. Tax Administration – Interest

DISCUSSION

Taxpayer protests the interest assessed because it seems high and not fair to the taxpayer under the circumstances.

0220030094P.LOF

Page 3

Under IC 6-8.1-10.1 the Department has no authority to waive interest.

FINDING

Taxpayer's protest is denied

CONCLUSION

Taxpayer's protest is partially denied and partially sustained for Issue I and denied for Issue II.

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